

**Colorado Association of Conservation Districts
Board of Directors Meeting Minutes
March 17, 2021, via Teleconference**

Attendees:

Scott Jones, CACD President - Colorado River Watershed Director
Tyler Neely, CACD Vice President - Rio Grande River Watershed
Mike Cleary, Director-Gunnison Dolores Watershed
Gary Thrash, Director - San Juan Basin /CO Representative to NACD
Jim Cecil, Director - Republican River Watershed Director
Charlie Carnahan, Director - Upper South Platte Watershed
George Fosha, Director - Upper Arkansas River Watershed Director
Nick Charchalis, Director - North Platte/White/Yampa River Watershed
Nancy Berges, Director – Lower South Platte Watershed
Joe Pope, Director – Lower Arkansas River Watershed
Bob Warner, CO Alternate Representative to NACD
Bobbi Ketels, CACD Executive Director
Brett Moore, CACD Lobbyist

Absent:

Guests:

Clint Evans, NRCS
Randy Randall, NRCS
Les Owen, CDA
Cindy Lair, CSCB
Ryan Taylor, CSCB
Noah McCord, CSCB
Callie Hendrickson, Exec. Director, White River CD
Marc Etchart, White River CD
Rosaly Coombs, Douglas Creek CD

Call to Order:

The meeting was called to order by **President Scott Jones** at 7:30 AM after establishing a quorum.

Prior Meeting Minutes:

President Scott Jones moved the minutes to the end of the agenda to give partners & guests the opportunity to speak first.

NRCS Update-Clint Evans & Randy Randall:

Clint Evans provided the NRCS update. Clint addressed the 404-permitting issue. The US Army Corp of Engineers (USACE) did not release guidance to their staff until mid-January of 2021. The memo between the EPA and the USACE refers to irrigation ditches potentially being jurisdictional under the Waters of the US (WOTUS). NRCS staff has been working with USACE and EPA, along with other groups, on this issue. USACE has issued some guidance in the last couple of months that significantly reduces the potential impact to ag producers and program participants in Colorado. In 2021 there are over 300 contracts with over 900 practices, with over 300 being ditch to pipeline conversion projects to put in sprinkler systems, and around 480 control structures to be installed on those ditches. Based on earlier guidance, NRCS advised their participants to contact USACE for a consultation to determine if they needed to file for a 404 permit. Each project would be on a case-by-case basis. They recognized the scope of this memo after receiving call after call from NRCS customers. As of today, if the ditch does not have any return flow to a stream or river, or a canal that has return flow to a stream or river, are not considered jurisdictional and no notification is needed

for the USACE, and the producer is not required to have a permit. There are portions of the State that will still require contacting USACE when it is not clear if there is return flow. Clint has sent out clarification to NRCS staff. A new Regional Permit is being reviewed to address any remaining issues.

Director Mike Cleary addressed the two projects in his area that have shut down due to the USACE permitting requirement. The stock water on the projects can be defined as dumping back into a tributary for return flow. In December 2020, USBOR has extended two of their ditch piping projects for another 6 months hoping this issue would be resolved. Paperwork was submitted to USACE, but the paperwork has been sitting on a desk at the USACE since January because they have not had time to review the information. Mike expressed concern about the impact this is having on ditch projects. Clint acknowledged the concern. He suggested that if this continues, ditch companies should contact John Whitney at Senator Bennet's office.

Les Owen stated the Colorado is operating on the old definition of WOTUS. Due to the District Courts decision on April 23, 2020, Colorado will join the other states under the navigable waters' protection rule of 2020, where most of the ditches that are jurisdictional today will not be in April. He asked Clint if USACE has made any decision on how many of the ditches will not be jurisdictional at the end of April. Clint stated no, but he is concerned that due to some of the language they are re-evaluating what was previously approved as an ag exemption under Permit 46. Clint added that it sounds like they are narrowing the scope of Permit 46. Les noted that after Colorado is under the 2020 WOTUS definition, there is likelihood that there will be a State dredge and fill permit program legislated this year. From what he understands it will contain all the ag exemptions available for the Federal process, but we may run into the same issues for clarification.

Clint reported that NRCS just held their State Technical Advisory Committee meeting with 75 attendees. He was impressed with the level of engagement.

Clint stated that all USDA offices are operating under Federal COVID guidance. They are operating at a 25% staff level and are not allowed to have customer appointments in the office. However, they can meet in the field. He is hoping that by mid-summer they will be back to a more open operational status with more staff back in the office.

Randy Randall addressed the Cooperative Agreement. Bobbi and Randy have been meeting to discuss the remaining funding in the CACD agreement. \$90,035.00 was added in the 2021 agreement. There was a remaining balance of \$19,000.00 from the 2020 agreement. The agreement does not expire until Dec. of 2021. They are considering a one- year extension.

The challenge that remains is that we would typically be looking at how to go through and revise a new agreement but with the uncertainty of being able to host the 2021 annual meeting, they have **proposed to the Board that between now and April and May of 2022, \$4,500 be spent for 3 issues of the Conservator, reimbursing Envirothon 2021 and 2022, about \$8,250, reimbursing Camp Rocky for fiscal year 2021 at \$8,050 and the 2021 Annual meeting at about \$32,000 (hold on these funds pending in person or virtual meeting).** That leaves about \$56,000 remaining that could potentially be used for additional funds for the Annual meeting, mini grants through the education workshop funding, District speakership opportunities and possibly some video production projects.

The goal is to have a new 2022 agreement in place by March or April. Randy asked for the Boards concurrence on this spending and agreement recommendation. **Director George Fosha** commented that he feels it is a good plan. If funds need to be moved around, NRCS would ask for a written request from CACD to move funds to different categories. **Director Tyler Neely** moved to proceed forward with this funding proposal. **Director Charlie Carnahan** gave the second. **Motion Passes**

Director George Fosha asked NRCS what their thoughts are with regards to FPAC. Clint commented that it was established about 3 years ago. He has posed the question of the potential that the business center would be returned to the previous operations. He was told that Secretary Vilsack was in favor of the centralized

management. It is unlikely that the support services will be changed. **Director George Fosha** asked if this distances Conservation Districts from the local NRCS and FSA operations. Clint replied “no” since NRCS works with CACD and Districts at the local level. Clint feels that the disadvantage is in timeliness to get things done. Cindy Lair added that prior to FPAC she worked with NRCS and had quick response to about everything and decisions were in local control. Now it is difficult to determine where things are in the pipeline and it also takes time to get the work completed. She would like to see things go back to the way it was before FPAC.

White River and Douglas Creek CDs Callie Hendrickson and Marc Etchart

Marc referred to the letter that was sent to CACD stating the White River position on dues for 2021. Their Board feels that their resolutions, sent to CACD through the Watershed, have not been properly represented. Both CD Boards asked for a solution to the non-representation of their resolution submittals and asked if anything been solved?

Director Scott Jones recapped the Resolution that was written in 2019. It was sent to Committee at the Colorado Springs Annual meeting. It was put on the consent calendar. From there it goes into the Policy Book. Addressing the water resolution first, Brett explained that the Resolution was modified in the Water Resource Committee. **The final Resolution reads: CACD requests and encourages the Division of Water Resources to acknowledge water usage and ensure that such water usage data is entered in the Colorado Division Support System within six months after it has been reported.**

Marc stated that the copy they have states that CACD will contact the State Engineer. Brett explained that is not what came from the Committee. Callie explained that this is not a localized issue and should be addressed at the State level. Brett reported on the Resolution history since 2019; all Resolutions that passed are being tracked by the Legislative Committee as Action Items or Policy Items. Callie stated that she wants to move forward and know what’s going to change with the way things are handled. Referring to Brett’s notes, Callie had heard nothing about this until she had a conversation with their Division Engineer where she said she had received a letter from CACD. She considers this a Statewide issue and they still do not understand why it has been so targeted at a local level including a call to their local commissioner last week after she had asked CACD not to contact their local people. She asks again that there be no more communication with their local people as it complicates their local relationship that is extremely important to the Board and their community. CACD’s communication is complicating that relationship.

Marc stated that at their Board meeting it was decided that this needs to be worked on at the State level. George responded to Callie and said that he feels they should have kept White River and Douglas Creek in the line of communication. The Resolution said the Division of Water Resources, so they felt it was important to start at the local level rather than going over the head of the local person. George has since talked to the Engineers in Division 4, 5 and 2 about this concern. All three of them informed George that they have a few issues with the recordings not being made, so as far as this being a Statewide issue, he is not seeing the same thing. He went on to say that he has communicated with their Water Commissioner including last week which was largely to get an update on whether or not she had been getting more data into the data base. The Water Commissioner told George that there are still some questionable ones that she might not enter. The Water Commissioner issued a memo on self-reporting of diversions, and she hopes this is a step in the right direction for the water users to help get good records so they can be entered in the data base.

George accepted part of the blame for not keeping the two Conservation Districts more in touch with the process. CACD will continue to work on the Resolution. Rosalie from Douglas Creek CD stated that since the Resolution was passed by the State Committee, she feels that all the Districts had some of the same concern. She also stated that there is still concern from water users that things are still not showing at the State level on their water usage. With the water shortages, they are concerned for their water rights. Callie requested that before CACD considers contacting local people in any District, they communicate with that local District first. She asked if CACD plans to contact the State Engineer. Brett suggested that CACD work with the two Conservation Districts to create the letter that will go to the State Engineer if they find it appropriate.

Brett noted that the second Resolution in the letter is titled "Colorado Department of Ag Soil Health Program in the North Platte/ White/Yampa Watershed" went to the District Association Financial and Outlook Committee as an Action Item. It stated that CACD support a Soil Health Program within the Colorado Department of Agriculture and/or Department of Natural Resources, only if developed and implemented through the Colorado State Conservation Board (CSCB) and the local conservation districts. CACD supported the Soil Health Program through the State Budget Process last year at the Legislature.

Director Nick Charchalis served on the Producer Advisory Committee for Soil Health Collaborative, Bobbi participated in those calls and Policy meetings. Brett added that there have been hundreds of hours spent on the soil health topic. Callie stated that there was an action item and a policy item on this Resolution. The action item was to send a letter to CDA and CSCB requesting what the policy said. The policy statement is what Brett quoted above. Callie noted that the CACD letter came across as a policy statement not an action item. Brett stated it was recorded as an action item by the resource committee, which they are tracking as the Soil Health Bill presented at the Legislature.

Brett regrets that this was not caught last year with the Policy Book rewrite, and he is not sure of the path to change something put into the Policy Book last fall. The action item is still in force and still a guiding principle as they decide what Bills they are going to work on. Bobbi reviewed the CSCB notes from the Outlook Committee. In the notes it says, "In the Colorado Department of Ag Soil Health Program North Platte/White/Yampa Watershed, CACD supports the soil health program within the Colorado Department of Ag and/or Department of Natural Resources only if developed and implemented through the Colorado State Conservation Board (CSCB) and the local Conservation Districts." *Action Item: Consent Calendar: Hans moved to approve as written, Nick seconds, discussion, all in favor, Motion Carries to Consent Calendar.

CACD has a letter of support from the Board of CSCB for the soil health program from the 2018 Shavano Soil Health resolution as long as it runs through CSCB and the Districts. All (3) soil health resolutions submitted to CACD that passed agree with each other. Callie asked if this would remain an action item until the next annual meeting. The policy and resolution continued to be discussed.

CACD does not have an official position on **HB 1181 Agricultural Soil Health Program**, currently. Callie would like to see CACD take a position on this Bill and asked that they **not** support the Bill. Callie also asked for a letter from CACD on what will be done to verify and make sure things were finalized like they understood it to be, and that Districts have the opportunity to follow up. Additional discussion followed.

CSCB Update:

Cindy Lair introduced Ryan Taylor to the group and gave a brief history of his background and what his first priorities are in his new position. Ryan's main responsibility is to be working on the soil health STAR program.

Cindy addressed the Soil Health Bill. She feels that the Board knows where she stands on the Bill. Conservation District were set up to do this very thing. She has always said this program should be something the Districts have an option to work with. She acknowledges that some Districts do not have the capacity to work on this program. If funding or staffing is an issue, maybe Conservation Districts could work together, or it could be a Watershed, leaving the program to be a Conservation District lead project. She would like to have funding that can be given to Conservation Districts that want to participate. If there is not a Conservation District, maybe there is an outside group that could operate the program locally. Any new funding for the Districts needs to be tied to a purpose and soil health could be that purpose. The intention has always been to keep the program in the Conservation Services Division of CDA.

Brett asked if CDA has taken an official position on the Soil Health Bill. Cindy replied that CDA is supporting the Soil Health Bill. Bobbi asked for clarification: In 2018 and 2019 CACD had three Resolutions that all supported a soil health program as long as it goes under the umbrella of the CSCB. The confusion seems to be whether it is under CSCB or under the Conservation Services Division. Why can it not stay under CSCB? Cindy stated that the CSCB gives the CSCB employees guidance on how they work with the Districts. Their job

positions are managed through the CDA. The CSCB is not set up to oversee the day-to-day operations of the soil health program. She is responsible for reporting the program progress to the CSCB. Bobbi asked if the CSCB has changed their position since signing a letter of support for the program in 2018. Cindy replied that they have not had an official stance since the letter was written.

CSCB is a Type II governing board and gives guidance not daily management. The new department is now being called the Agriculture Drought and Climate Resilience Office. Discussions continued. Many questions remain unanswered, and Scott believes that is what is making Conservation District nervous. Cindy told the Board she is available to discuss this issue at any time. Cindy feels that if CACD opposes this Bill it would be confusing to members of the State Legislature.

Cindy informed the Board that Rachel Theler has accepted the position of Southwest Regional Representative for NACD. She also reported that the 319 Grant Proposal, to get funding for the STAR pilot, received funding. The pilot will be in four areas of the State: Boulder/Longmont CD, Routt CD, Shavano CD, and they will hopefully have a CD in the lower Arkansas. This will allow program bugs to be worked through before it goes Statewide. **Director Jim Cecil** asked if the grant funding is contingent on the Soil Health Bill passing. Cindy said they are separate.

CDA Update-Les Owen:

Les Owen, due to time, will send Bobbi an email on the status of Federal Register information.

NACD Update:

No report was given.

Monthly Financial Update:

Tabled due to time constraints.

CACD Programs:

Bobbi reported that the National Envirothon had to hire additional people for the virtual competition, and they are asking each State to donate an additional \$200 to the program to cover the additional expense. **Director George Fosha** moved to pay the additional donation of \$200.00. **Director Jim Cecil** seconds the motion. **Motion Passes.**

Legislative Update:

No Report was given due to time constraints. Brett stated that the CACD needs to take a position on the Ag Workers Bill at the Legislative Committee meeting following this meeting.

President Misc. Discussion and Updates:

No further discussion took place due to time constraints.

The next CACD BOD call will be **April 21, 2021, 7:30 AM**. Meeting adjourned at 10:03 AM

Respectfully Submitted,

Bobbi Ketels
CACD Executive Director